

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JILL DILLARD, JESSA SEEWALD,
JINGER VUOLO, and JOY DUGGAR

PLAINTIFFS

vs.

CASE NO. 5:17-5089-TLB

CITY OF SPRINGDALE, ARKANSAS;
WASHINGTON COUNTY, ARKANSAS;
KATHY O'KELLEY, in her individual and
official capacities;
ERNEST CATE, in his individual and official capacities;
RICK HOYT, in his individual and official capacities;
STEVE ZEGA, in his official capacity;
And DOES 1-10, inclusive

DEFENDANTS

MOTION FOR SUMMARY JUDGMENT ON BEHALF OF
SPRINGDALE DEFENDANTS

COME NOW the Separate Defendants, City of Springdale, Arkansas ("Springdale"), City Attorney Ernest Cate, in his individual and official capacities ("Cate") and retired Springdale Police Chief Kathy O'Kelley, in her individual and official capacities ("O'Kelley"), (collectively the "Springdale Defendants"), by and through their undersigned attorneys, and for their Brief in Support of Motion for Summary Judgment state as follows:

1. This Court has retained jurisdiction of this matter that now consists only of the Plaintiffs' three Arkansas state tort claims: 1) the tort of invasion of privacy – intrusion upon seclusion; 2) the tort of invasion of privacy – public disclosure of private fact in violation; and 3) the tort of outrage.

2. Each of the three tort claims against the Springdale Defendants is based upon the release pursuant to the Arkansas Freedom of Information Act ("FOIA") of the redacted Springdale

Police Department Offense Report (“SPD Offense Report”) of the investigation into the criminal actions of Josh Duggar in molesting the Plaintiffs as well as a non-family member.

3. The Springdale Defendants released the SPD Offense Report in accordance with the requirements of the FOIA. As such, and for reasons set forth in the accompanying brief, each of the Plaintiffs’ claims fail as a matter of law and the Springdale Defendants are entitled to summary judgment. Even if this Court should disagree that the FOIA required release of the report, the Plaintiffs’ allegations amount to mere negligence at best. The Plaintiffs have failed to adduce any facts necessary to satisfy the high burden required for the intentional torts they have claimed.

4. Furthermore, the Springdale Defendants are entitled to qualified, statutory and vicarious liability immunity based upon Ark. Code Ann. § 21-9-301(a) and Arkansas Supreme Court precedent.

5. The Plaintiffs’ claims must be dismissed with prejudice in accordance with Rule 56 of the Federal Rules of Civil Procedure.

6. Contemporaneously with the filing of this Motion, the Springdale Defendants are filing a Brief in Support and Statement of Uncontested Material Facts (“SUMF”), both of which are adopted and incorporate herein by reference, as if set forth word for word, pursuant to Fed. R. Civ. P. 10(c). The Joint Motion for Judgment on the Pleadings (Doc. Nos. 134 & 135) is also incorporated herein by reference, as if set forth word for word, pursuant to Fed. R. Civ. P. 10(c).

7. For the reasons set forth in the accompanying Brief and the SUMF, the Springdale Defendants are entitled to summary judgment as a matter of law on all remaining claims of the Plaintiffs.

WHEREFORE, the City of Springdale, Arkansas, Ernest Cate, in his individual and official capacities, and Chief Kathy O’Kelley, in her individual and official capacities, pray that this Court

grant their Motion for Summary Judgment for all claims, and to thereby dismiss Plaintiffs' claims with prejudice.

Respectfully Submitted,

R. Justin Eichmann (Ark. Bar No. 2003145)
Thomas N. Kieklak (Ark. Bar No. 92262)
Morgan S. Doughty (Ark. Bar No. 2010158)
HARRINGTON, MILLER, KIEKLAK,
EICHMANN & BROWN, P.A.
4710 S. Thompson, Suite 102
Springdale, AR 72764
Phone: (479) 751-6464
Fax: (479) 751-3715
Email: mdoughty@arkansaslaw.com
Email: tkieklak@arkansaslaw.com
E-mail: jeichmann@arkansaslaw.com

and

Susan Keller Kendall (Ark. Bar No. 98119)
KENDALL LAW FIRM, PLLC
3706 Pinnacle Hills Parkway, Suite 201
Rogers, Arkansas 72758
Phone: (479) 464-9828
Fax: (479) 464-9768
Email: skk@kendalllawfirm.com

**COUNSEL FOR SPRINGDALE
DEFENDANTS**

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 6th day of October 2021, a true and correct copy of the above and foregoing was filed using the Court's CM-ECF System, which effected service on all counsel of record:

Steven E. Bledsoe Stephen G. Larson Jen C. Won LARSON O'BRIEN, LLP 555 S. Flower Street Suite 4400 Los Angeles, CA 90071	Shawn B. Daniels DANIELS FIRM 129 W. Sunbridge Drive Fayetteville, AR 72703 479-521-7000 Fax: 479-437-2007 shawn@danielsfirm.com
--	---

(213) 436-4888 sbledsoe@larsonobrienlaw.com slarson@larsonllp.com jwon@larsonllp.com	
Jason Owens (Ark. Bar No. 2003003) JASON OWENS LAW FIRM, P.A. 1023 Main St., Suite 204 Conway, Arkansas 72033 (501) 764-4334 owens@jowenslawfirm.com	

R. Justin Eichmann (Ark. Bar No. 2003145)